

Before the
Federal Communications Commission
Washington, D.C. 20554

In the matter of)	
)	
Octatron, Inc. and Chang Industry, Inc.)	
)	ET Docket No. 05-356
Request for Waiver of Sections 15.247(b),)	
15.247(e) and 15.249(a) of the FCC's Rules)	
and Regulations		

To: The Chief, Office of Engineering and Technology

Comments on Request for Waiver

Cellnet Technology, Inc. ("Cellnet")¹ hereby comments on the above-captioned Request for Waiver filed by Octatron, Inc. and Chang Industry, Inc. ("Petitioners"). Petitioners seek a waiver of the FCC's Part 15 technical rules governing the 902-928 MHz band in order to permit the authorization, importation and operation of its video and audio surveillance systems known as the "Dragon Egg System" and as the "Pole Camera System."

Cellnet is participating in this proceeding because it has a strong interest in protecting the technical integrity of the various bands in which unlicensed Part 15 devices have generally proliferated to the substantial benefit of consumers. For example, Cellnet and its predecessors have actively participated in many FCC proceedings dealing with the use of the 902-928 MHz

¹ Cellnet is the leading provider of real-time automated meter reading ("AMR") and automation solutions to the utility industry. Based in Atlanta, Georgia, Cellnet supplies gas, water, and electric utilities with highly reliable, field-proven products that enable them to communicate with residential and commercial and industrial meters using wireless and IP network communications. Using a combination of Part 101 Multiple Address System ("MAS") licenses and spread spectrum Part 15 devices, Cellnet has created a low-cost, private internal telemetry services network used for the remote monitoring and control of devices, primarily utility meters. Cellnet utilizes the 902-928 MHz band for its unlicensed local area network connecting the endpoint (meter) devices to the MAS network. Cellnet is dedicated to combining its leading technology and vast industry experience to continue to provide the industry with the most reliable and proven AMR solutions available.

band, principally to assure that it remains a viable band for low-power, efficiently engineered systems on a heavily shared basis.²

For an unlicensed band to be shared cooperatively, all Part 15 product manufacturers should be required to play by the established rules. This is especially important in light of the Commission's recent statement that incumbent Part 15 devices are not entitled to any interference protection from other Part 15 devices: "It does not matter who operates the unlicensed equipment or the purpose for what the equipment is used – no protection against received interference is provided or available."³ While Cellnet disagrees with this policy approach to unlicensed devices, if a Part 15 device must accept all interference from other Part 15 devices, it is not appropriate for some Part 15 devices to gain a technological advantage over other Part 15 devices by obtaining waivers of the FCC's rules, except after rigorous technical review of the requesting party's need for a waiver and a showing that the proposed use (a) provides a significant public interest benefit not otherwise attainable; and (b) will not create a significant threat of objectionable interference to existing or future users of the band that are operating within the rules.

Although Cellnet on principle generally opposes any waiver of the Part 15 technical rules, Cellnet also recognizes that the Dragon Egg System may provide important public safety benefits, such as its use when law enforcement personnel are conducting surveillance of locations that otherwise are difficult or impossible to observe directly. If the FCC decides to grant a waiver to the Petitioners for reasons of public safety, Cellnet urges that any waiver

² Cellnet, for example, has installed over 10 million end points in its expanding network of AMR services, substantially aiding the efficiency and effectiveness of our nation's energy utilities at a time when energy prices and availability are important issues for both federal and state policy makers.

³ Remington Arms Company, Inc. Request for a Waiver of the Part 15 Regulations, FCC 05-194, 20 FCC Rcd 18724 (2005) ("Remington Decision") at ¶10.

granted at a minimum should be subject to at least the same sales and operational restrictions that the Commission adopted with respect to the functionally similar Remington Eyeball device.⁴ Otherwise, a proliferation of non-compliant Part 15 products could cause harmful interference to the millions of compliant Part 15 devices operating in the 902-928 MHz band that play important roles in the U.S. economy (medical products, public traffic systems, inventory control, home security and law enforcement surveillance systems) and in particular in maintaining our nation's critical infrastructure. As Cellnet has described in its filings in ET Docket No. 03-201, the majority of all electricity AMR devices deployed in the field and over 30 million non-electric (gas and water) AMR devices operate in the 902-928 MHz band. Additionally, utilities rely on this band for many of their Supervisory Control and Data Acquisition (SCADA) systems; interference to them potentially could precipitate electricity blackouts, blowing gas lines, and failures in water and sewage plants.⁵

Specifically, the Dragon Egg device should be authorized only under the conditions that sales are restricted to law enforcement organizations that are eligible for licensing under Section 90.20 of the Commission's regulations and that the device may be marketed only directly to Section 90.20 eligibles.⁶ Additionally, operation of the Dragon Egg System should be restricted to law enforcement agencies using it for emergencies involving safety-of-life or for training purposes.⁷ Similar to the Remington Eyeball, the Dragon Egg System also should not be permitted to be used for permanent or for fixed operations.⁸ To enforce the latter restriction, the

⁴ See *Remington Decision* at ¶ 12.

⁵ See, e.g., ex parte letter submitted on behalf of Cellnet Technology, Inc. by Lawrence J. Movshin to Marlene H. Dortch, Secretary, FCC, ET Docket No. 03-201, December 13, 2005.

⁶ *Remington Decision* at ¶ 12, 18.

⁷ *Id.*

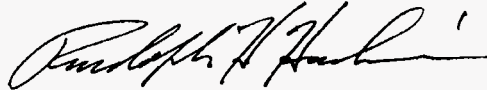
⁸ *Id.* at ¶ 14, 18.

Commission should both prohibit the advertisement of the Dragon Egg in fixed mode and bar the sale of ancillary devices that would permit a fixed installation of the Dragon Egg device.

Finally, any waiver granted should be limited to a maximum of 18 months. By limiting the waiver to a fixed period of time, the Commission will provide the Petitioners an appropriate incentive to develop a Part 15 compliant product, while allowing the existing product to be utilized immediately for public safety purposes and to undergo marketplace testing to establish whether the product will warrant investment in the development necessary to satisfy technical requirements without a waiver. An unlimited waiver, on the other hand, even where public interests will be served, does an injustice to those who have and will spend the resources necessary to comply with technical requirements in the Part 15 rules.

Respectfully submitted,

CELLNET TECHNOLOGY, INC.

A handwritten signature in black ink, appearing to read "Randolph H. Houchins", written over a horizontal line.

By: Randolph H. Houchins
General Counsel

January 30, 2006